

## Message Text

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P R 081658Z JUL 77  
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INFO ALL OECD CAPITALS  
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H PASS CODEL

E.O. 11652: NA  
TAGS: ETRD MTN GATT  
SUBJ: MTN FRAMEWORK GROUP MEETING, JUNE 30-JULY 1

REF: A. GENEVA 5393 (NOTAL), B. TPSC 77-51, C. BRUSSELS 6570,  
D. GENEVA 4683, E. MTN GENEVA 1341

1. BEGIN SUMMARY. FRAMEWORK GROUP (FG) BEGAN TRANSITION TO ITEM-BY-ITEM HANDLING OF ITS FIVE-TOPIC AGENDA, WITH LDCS PRESSING FOR PRIORITY ATTENTION TO FIRST AND FOURTH TOPICS (SPECIAL/DIFFERENTIAL (S/D) LEGAL FRAMEWORK AND LDC NON-RECIPROCITY) WHILE DCS CONTINUED TO ADDRESS ALL FIVE TOPICS. MAIN DCS INCLUDING U.S. MADE PRELIMINARY COMMENTS ON BRAZILIAN PROPOSAL INTRODUCED AT LAST FG MEETING. NORDICS TABLED LENGTHY STATEMENT, SURPRISINGLY CONSERVATIVE ON LDC ISSUES, AND COVERING ALL TOPICS. GENERALLY CONSTRUCTIVE

EC PARTICIPATION INCLUDED HIGHLY MUTED INDICATION OF INTEREST IN S/D "ENABLING CLAUSE" AND MINUTELY SOFTENED OBJECTIONS TO DC BOP TOPIC AND DISPUTE SETTLEMENT DISCUSSION. CANADIAN OPPOSITION TO EXPORT RESTRICTIONS DELIVERED IN BETTER HUMOR THAN AT LAST FG MEETING. CHAIRMAN'S SUMMING UP ENVISAGES MORE CONCRETE DISCUSSION OF ALL TOPICS SERIATIM AT FALL MEETING TO BE SCHEDULED IN CONSULTATION WITH DELS. END SUMMARY.

2. FG MET IN THREE PLENARY SESSIONS AND ONE INFORMAL RESTRICTED MEETING DURING PERIOD JUNE30-JULY 1 TO CONSIDER (A) ADDITIONAL GENERAL STATEMENTS FROM DELEGATIONS; (B) PRELIMINARY REACTIONS TO POINTS RAISED AT PREVIOUS MEETING LIMITED OFFICIAL USE

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(ESPECIALLY BRAZILIAN AND U.S. "PROPOSALS"); AND (C) HOW TO PROCEED IN FUTURE WORK OF GROUP. SEVERAL COMMON THEMES EMERGED FROM DC AND LDC SIDES, AND GROUP BEGAN TO MOVE INTO ITEM-BY-ITEM WORK METHOD. U.S., WITH FIRM SUPPORT OF JAPAN AND EC, SUCCESSFULLY RESISTED EFFORTS BY LDCS IN RESTRICTED SESSION TO LIMIT INITIAL FG WORK TO FIRST TOPIC ONLY. FORMULATION WHICH FINALLY EMERGED IN SUMMING UP OF ACTING CHAIRMAN (DG LONG) STATES THAT "EACH OF THE SUBSTANTIVE QUESTIONS SHOULD BE TAKEN UP IN TURN" IN "MORE SPECIFIC TERMS" AT FALL MEETING YET TO BE SCHEDULED. (COMMENT: BRAZILIANS SIGNALLED THEY WOULD PUSH FOR MEETING AS EARLY AS POSSIBLE, I.E., EARLY OCTOBER; SINCE TOPIC-BY-TOPIC APPROACH MAY EXTEND MEETING OVER SEVERAL DAYS, AND SUBSTANTIAL USG PREPARATORY WORK NEEDED, MTN DEL BELIEVES WE BETTER SERVED BY LATER MEETING--NOVEMBER AT EARLIEST. END COMMENT).

3. WE ARE TRANSMITTING TEXT OF SUMMING-UP SEPTEL TO WASHINGTON AND WILL POUCH COPIES OF ANY DELEGATION'S STATEMENT WE OBTAIN WITHIN NEXT FEW DAYS. MANY DELS APPARENTLY PLANNING TO CIRCULATE THEIR INTERVENTIONS AS GATT DOCUMENTS. IN THAT LIGHT, FOLLOWING PARAGRAPHS REPORT

ONLY HIGHLIGHTS OF MAIN DELEGATION COMMENTS ON SUBSTANTIVE  
AGENDA ITEMS.

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4. S/D LEGAL FRAMEWORK: ADDRESSING FOR THE MOST PART  
BRAZILIAN PROPOSALS, MANY DCS INDICATED WILLINGNESS TO  
IMPROVE UTILITY AND STABILITY OF GSP BUT WITHOUT ACCEPTING  
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LDC ARGUMENT (FREQUENTLY REPEATED THIS MEETING) THAT LEGAL STATUS AS GATT EXCEPTION CREATED SUBSTANTIAL IMPEDIMENTS TO SATISFACTORY GSP. DCS FLATLY NEGATIVE ON BRAZILIAN PROPOSAL TO SANCTION BOUND PREFERENTIAL RATES AND MARGINS. THEY EXPRESSED RANGE OF VIEWS ON POSSIBILITY, RAISED BY BRAZIL, OF NEW "GENERAL CLAUSE" TO GIVE REGULARIZED LEGAL STATUS TO VARIOUS CURRENT OR POTENTIAL PREFERENTIAL ARRANGEMENTS ON TARIFFS AND NTBS. EC (LUYTEN) IN VEILED INDICATION OF COMMUNITY INTEREST IN ENABLING CLAUSE (REFS C AND D) STATED THAT COMMUNITY WAS "READY TO AFFIRM" THAT MORE SATISFACTORY LEGAL FRAMEWORK IN FAVOR OF LDCS MUST BE ENVISAGED, PERHAPS BY INCORPORATING "PRECISIONS" IN GATT PART IV WHICH HAD BEEN LEFT OUT WHEN IT WAS NEGOTIATED IN 1964. EC INTEREST HIGHLY QUALIFIED, HOWEVER, BY NUMEROUS CONDITIONS: S/D NOT TO BE COMPULSORY OR AUTOMATIC; SHOULD NOT RAISE OBSTACLES TO THIRD-COUNTRY TRADE; SHOULD BE SUBJECT TO APPROPRIATE EXAMINATION AND SURVEILLANCE; SHOULD BE TAILORED TO SPECIFIC SITUATIONS OF INDIVIDUAL COUNTRIES AND IN FORCE ONLY SO LONG AS JUSTIFIED (I.E., THERE SHOULD BE "GRADUATION"). NORDICS (SELMER OF NORWAY), JAPAN (UKAWA), AUSTRALIA (AMB. FOGARTY), CANADA (AMB. GREY), WERE ALL LESS FORTHCOMING THAN EC, FOCUSING ON PITFALLS OF ENABLING CLAUSE APPROACH AND LACK OF PROVEN NEED BY LDCS. U.S. (HARTZELL), WHILE INDICATING WE NOT UNWILLING TO EXAMINE SUCH IDEAS IN EXPECTATION THAT PRACTICAL PROBLEMS IN CURRENT FRAMEWORK COULD BE EXPLAINED, OBSERVED THAT IT WAS PREMATURE AT THIS EARLY STAGE TO TRY TO ASSESS "GENERAL CLAUSES" WITHOUT KNOWING WHERE THEY WERE LIKELY TO LEAD AND WHAT SPECIFIC KINDS OF S/D WOULD EVOLVE ELSEWHERE IN MTN, NEEDING NEW LEGAL COVER.

5. LDCS CONTINUED TO ASSERT INADEQUACY OF EXISTING FRAMEWORK, BUT DID NOT ADVANCE PARTICULARS TO EXPLAIN IMPEDIMENTS TO LIMITED OFFICIAL USE

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THEIR TRADE. FOR MANY, IT SEEMED TO BE QUESTION OF WHETHER GATT WOULD PROVIDE MORE "RESPECTABLE" COVER FOR S/D THAN UNDER PRESENT WAIVER AND QUASI-WAIVER APPROACHES (E.G., JAMAICA NOTED INADEQUACY OF GATT PARTY IV BECAUSE IT HAD FAILED TO PROVIDE THE ANTICIPATED LEGAL COVER FOR GSP AND INTRA-LDC TARIFF PREFERENCES UNDER THE 'PROTOCOL OF 16'). LDCS GENERALLY ARGUED FOR CONCENTRATING CURRENT WORK OF FRAMEWORK GROUP ON THIS TOPIC, IN CONJUNCTION WITH NON-RECIPROCITY ELEMENT OF FOURTH TOPIC.

6. BOP AND ECONOMIC DEVELOPMENT SAFEGUARDS: BULK OF COMMENT DIRECTED AT BRAZILIAN AND U.S. BOP PROPOSALS AND

SWEEPING BRAZILIAN IDEAS FOR REFORM OF GATT ARTICLE XVIII.  
MAIN TRUST OF DC COMMENTS ON HANDLING OF LDC BOP MEASURES  
WAS THAT NEW SUBSTANTIVE RULES NOT APPROPRIATE (EXCEPTION:  
EC PROPOSED LEGALIZING SURCHARGES AND PRIOR DEPOSITS FOR  
LDCS, IF THESE NOT USED IN MULTIPLE FASHION); BUT THAT  
BOP REVIEW PROCEDURES COULD BE BETTER TAILORED TO HANDLE PART-  
ICULAR LDC CONCERNS. ALL DCS REJECTED BRAZILIAN SUGGESTION,  
ECHOED BY MEXICO, THAT LDCS SHOULD USE SELECTIVE BOP  
MEASURES TO REDRESS BILATERAL DEFICITS WITH DCS, AND THAT  
LDCS BE EXEMPTED "IN PRINCIPLE" FROM ANY DC BOP MEASURES.  
ON DC BOP RULES, JAPAN CONTINUED TO SUPPORT U.S. IDEA OF

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DC DECLARATION OF NON-RESORT TO BOP MEASURES, AND ALSO  
BACKED SOME PROCEDURAL IMPROVEMENTS. EC EXPRESSED "GRAVE  
DOUBTS" ON PROCEDURES WHICH WOULD IN EFFECT LEGALIZE  
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CURRENTLY NON-LEGAL MEASURES FOR DCS, ESPECIALLY WHEN GATT  
WAS NOT BEST FORUM FOR ADDRESSING BOP PROBLEMS IN THE FIRST  
PLACE. MOST THAT COULD BE DONE IN GATT WOULD BE TO HANDLE  
OCCASIONAL SPECIAL TRADE ASPECTS; TO EC IT WAS COUNTER-  
PRODUCTIVE TO "LEGISLATE IN THE FIELD OF PROCEDURES," BUT  
PERHAPS "NEW LIGHT" MIGHT BE SHED ON THIS FIELD IN THE  
NEXT FEW MONTHS.

7. REGARDING BRAZIL'S PROPOSALS FOR REVISING ARTICLE  
XVIII:A AND C, DCS WERE UNIFORMLY SKEPTICAL IN THE LIGHT  
OF RECORD OF NON-USE. U.S. ADDED HOPE THAT INTEREST SHOWN  
BY LDCS IN IMPROVING THEIR FLEXIBILITY TO DEVIATE TEMPORARILY  
FROM BOUND CONCESSIONS AND OTHER GATT OBLIGATIONS COULD  
BE TAKEN TO INDICATE CORRESPONDING INTEREST BY LDCS IN  
SUBSTANTIALLY INCREASING TARIFF BINDINGS OVER TIME AND  
PROGRESSIVELY BRINGING IMPORT REGIMES INTO CONFORMITY  
WITH GATT. IN THAT CONNECTION A SECRETARIAT REPORT OF EXTENT  
OF CURRENT LDC BINDINGS WOULD BE USEFUL STARTER.

8. CONSULTATION/SURVEILLANCE/DISPUTE SETTLEMENT: MAIN  
THRUST OF SPORADIC LDC STATEMENTS WAS NEED TO REDRESS  
IMBALANCE OF ECONOMIC WEIGHT AND POLITICAL INFLUENCE BETWEEN  
LARGE AND SMALL CPS BY GIVING LATTER ADVANTAGES IN THE  
SURVEILLANCE AND DISPUTE SETTLEMENT PROCESS. MEXICO  
(GARRIDO) SPECIFICALLY REFERRED TO ITS PROPOSALS IN  
SUBGROUP STANDARDS AS EXAMPLE OF HOW PROCEDURES COULD BE  
WRITTEN TO FAVOR LDCS. DCS GENERALLY ASSERTED PRESENT  
GATT ARTICLE XXII/XXIII FRAMEWORK WAS SOUND, BUT THAT SOME  
PROCEDURAL AND PRACTICAL IMPROVEMENTS COULD BE EFFECTED.  
MOST WERE WILLING TO EXPLORE WHETHER LDCS REALLY PLACED  
AT A DISADVANTAGE BY CURRENT PROCEDURES, WITH A VIEW TO  
MAKING IMPROVEMENTS, BUT THERE WAS LITTLE RECEPTIVITY TO  
"SPECIAL" PROBLEMS OF LDCS IN THIS AREA. IN SLIGHT  
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CONTRAST TO ITS PREVIOUS STATEMENTS, EC NOT ENTIRELY  
NEGATIVE, ADMITTING SOME FINE TUNING MIGHT BE POSSIBLE  
BUT URGING THAT THIS BE DONE BY GATT VETERANS (I.E., NOT

IN FG IF POSSIBLE); MEXICO LATER SHARPLY CHALLENGED  
IMPLICATION THAT FG WAS NOT APPROPRIATE VENUE FOR NEGOTIATION  
OF SURVEILLANCE AND DISPUTE SETTLEMENT PROCEDURES. MOST  
DCS NOTED THAT SPECIAL CONCILIATION PROCEDURES FOR LDCS  
UNDER ARTICLE XXIII, ESTABLISHED BY CPS IN 1966, REMAINED  
UNUSED AND THUS RAISED A QUESTION WHETHER FURTHER SPECIAL  
PROCEDURES WERE WARRANTED.

9. U.S. ADDRESSING DOUBTS EXPRESSED BY NORDICS, JAPAN  
AND SOME OTHERS ABOUT OUR PROPOSAL FOR A GENERAL OBLIGATION  
TO NOTIFY AND CONSULT IN GATT ON ALL TRADE RESTRICTIVE  
MEASURES, POINTED TO ANOMALY OF PRESENT SITUATION UNDER  
WHICH ONLY ABOUT HALF OF THE DOZEN OR SO GATT ARTICLES  
PERMITTING RESTRICTIVE MEASURES ALSO INCLUDED A REQUIRE-  
MENT FOR NOTIFICATION/CONSULTATION (NOT TO MENTION MEASURES  
TAKEN WITHOUT ANY CITATION OF GATT COVER). ALTERNATIVES  
TO OUR PROPOSAL WHICH WOULD REMEDY THIS DISPARITY WOULD BE  
WELCOMED.

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10. LDC "NON-RECIPROCITY"/GRADUATION: MOST DELS ADDRESSED THIS TOPIC IN CONJUNCTION WITH LEGAL FRAMEWORK ITEM. LDCS GENERALLY ARGUES THAT WITHOUT SPECIFIC CONTRACTUAL LANGUAGE LIMITED OFFICIAL USE

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GUARANTEEING THEY DID NOT OWE DCS EQUIVALENT CONCESSIONS IN TRADE NEGOTIATIONS--REINFORCED BY PROCEDURAL DEVICES TO MAINTAIN AND ENLARGE THE RESULTING IMBALANCE OF CONCESSIONS--THEY WOULD CONTINUE TO BE DENIED FULL OPPORTUNITIES FOR ECONOMIC ADVANCEMENT THROUGH BETTER TRADE PERFORMANCE. ARGENTINA (AMB. MARTINEZ), BRAZIL (AMB. MACIEL), AND OTHERS REJECTED DC SUGGESTIONS THAT SUCH NON-EQUIVALENCE WOULD ALSO REQUIRE DCS TO DIFFERENTIATE AMONG LDCS IN GRANTING S/D AND IN DC REQUESTS FOR CONTRIBUTIONS BY LDCS IN TRADE NEGOTIATIONS (I.E., TO INSURE "GRADUATION"). MARTINEZ ARGUED THAT THIS WOULD CREATE A MULTITUDE OF COUNTRY-SPECIFIC SPECIAL RULES AMOUNTING TO A BASKET OF MINI-GATTs (SPANISH PUN WAS "GATTITOS") WHICH WOULD BE FAR GREATER DEPARTURE FROM UNITARY GATT THAN LDCS THEMSELVES WERE SEEKING. BOTH MEXICO AND BRAZIL, HOWEVER, AFFIRMED THAT THEY DID NOT INTEND TO BE 'PROFESSIONAL' DEVELOPING COUNTRIES AND THAT THEY HOPED TO REACH DEVELOPED STATUS AND GIVE UP S/D "AS SOON AS POSSIBLE"--ALTHOUGH THAT MIGHT NOT BE VERY SOON.

11. DCS CONSISTENTLY RESPONDED THAT PRESENT RECIPROCITY STANDARD OF ARTICLE XXXV:8 AND TOKYO DECLARATION WAS QUITE ADEQUATE TO PROVIDE FOR NON-EQUIVALENT CONCESSIONS--RELATIVE RECIPROCITY--AND THAT DETAILED NON-RECIPROCAL NEGOTIATING RULES SUGGESTED BY BRAZIL WERE OF QUESTIONABLE UTILITY, EVEN INAPPROPRIATE. SOME BASIS FOR DIFFERENTIATING AMONG LDC LEVELS OF DEVELOPMENT WOULD HAVE TO BE DEVELOPED IN THE LIGHT OF THE DIFFERING "TRADE, DEVELOPMENT, AND FINANCIAL" NEEDS OF LDCS CITED IN XXXVI:8 AND TOKYO DECLARATION SINCE THOSE NEEDS WERE THE REASON FOR SEEKING TEMPORARY DIFFERENTIAL TREATMENT. U.S. NOTED IT VIEWED THIS TOPIC AS LINKED TO ALL AGENDA ITEMS, NOT JUST TO LEGAL FRAMEWORK ISSUE (FIRST TOPIC).  
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12. EXPORT RESTRICTIONS: LDCS DID NOT COMMENT ON THIS TOPIC, ALTHOUGH BRAZIL WAS ASKED TO EXPLAIN ITS PROPOSAL TO AMEND ARTICLE XVIII TO PERMIT SAFEGUARD MEASURES BY AN LDC "IN RELATION TO ITS EXPORTS." DC DISCUSSION PRODUCED NO SURPRISES WITH NORDICS JOINING RANKS OF THOSE FAVORING SOME CAREFUL WORK ON THIS SUBJECT. EC STRENGTHENED ITS SUPPORT OF U.S. PROPOSAL TO EXAMINE PRESENT GATT PROVISIONS, AS A STARTING POINT, AND JAPAN REAFFIRMED ITS INTEREST. CANADA REGISTERED EXPECTED OBJECTIONS BOTH TO SUBSTANCE OF TOPIC AND UTILITY OF DISCUSSING IT IN FRAMEWORK GROUP, BUT WITH LESS RANCOR THAN AT PREVIOUS MEETING (E.G., GREY NOT SURE FROM OUR STATEMENTS WHETHER U.S. HAD MADE A PROPOSAL, "BUT IF THEY HAVE, I'M AGAINST IT\*"; HE KNEW WHAT NORDICS, AS RAW MATERIALS IMPORTERS BENEFITING FROM DUTY-FREE ACCESS TO EC FOR THEIR PROCESSED PRODUCTS, WERE AFTER "BUT THEY'RE NOT GOING TO GET IT IN THIS CONFERENCE\*"). EC CALLED FOR THE EXAMINATION OF GATT PROVISIONS ENVISAGED UNDER THIS TOPIC TO BEGIN AT NEXT FG MEETING. U.S. POINTED TO ITS EXTENSIVE PREVIOUS STATEMENTS AND TO PAPER TABLED IN FEBRUARY MEETING, PLUS OTHER DELEGATIONS' STATEMENTS SINCE THEN, AS SAYING ALL WE THOUGHT NECESSARY FOR THE MOMENT.

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13. IN GENERAL PERORATION, MACIEL NOTED NUMEROUS REQUESTS FOR CLARIFICATION WHICH THEMSELVES WERE NOT VERY CLEAR-- BUT BRQZIL WOULD STUDY THEM. HE CHARACTERIZED THE LIMITED OFFICIAL USE

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REPEATED DC CALLS TO EXAMINE ADEQUACY OF THE EXISTING FRAMEWORK TO IDENTIFY PROBLEMS AS A "CATCH-22" APPROACH: FAILURE TO USE EXISTING PROVISIONS WAS BEING CITED AS BASIS FOR NOT CHANGING THEM, WHILE IF THEY HAD BEEN USED SUCCESSFULLY, THAT WOULD ALSO BE BASIS FOR NO CHANGE. HE EMPHASIZED THAT MOST BRAZILIAN PROPOSALS UNDER FIRST TOPIC WERE REALLY FOR ENABLING CLAUSES OF ONE SORT OR ANOTHER, RATHER THAN FOR OBLIGATORY GRANTING OF S/D TO LDCS. BRAZIL NOT PROPOSING THAT WHOLE GSP BE BOUND, BUT JUST THAT THERE BE A "QUASI-CONTRACTUAL" PROVISION TO GIVE GSP A "STANDING LEGAL BASIS." GENERAL ENABLING CLAUSE PROPOSED BY BRAZIL WAS INTENDED TO PERMIT FORMS OF S/D NOT SPECIFICALLY PROPOSED ELSEWHERE IN BRAZILIAN PAPERS.

14. COMMENT. MACIEL LEFT UNANSWERED MOST OF SPECIFIC QUESTIONS POSED TO HIM BY U.S. DEL (PER REFS B AND D) AND OTHER DCS. BELIEVE WE CAN STICK ON THESE QUESTIONS, INCLUDING IN INFORMAL AND BILATERAL CONTACTS, UNTIL SOME ANSWERS ARE FORTHCOMING. WE ARE ENCOURAGED THAT LARGELY CONSISTENT AND CONSERVATIVE (I.E., REALISTIC) DC LINE TOWARD LDCS AT THIS MEETING MAY HELP TO SCALE DOWN SOME LDC EXPECTATIONS. IT WILL REQUIRE MUCH REPETITION, HOWEVER, AND CONTINUED COORDINATION OF NEXT STEPS WITH OTHER DCS, WHICH IN TURN MEANS USG WILL NEED TO CLARIFY OWN THINKING OVER NEXT FEW MONTHS ON WHAT WOULD BE ACCEPTABLE FOCUS OF WORK IN EACH MAIN FG AREA. END COMMENT.MCNAMARA

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**Original Handling Restrictions:** n/a  
**Original Previous Classification:** n/a  
**Original Previous Handling Restrictions:** n/a  
**Page Count:** 11  
**Previous Channel Indicators:** n/a  
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**Previous Handling Restrictions:** n/a  
**Reference:** 77 GENEVA 5393, 77 BRUSSELS 6570, 77 GENEVA 4683, 77 MTN GENEVA 1341  
**Retention:** 0  
**Review Action:** RELEASED, APPROVED  
**Review Content Flags:**  
**Review Date:** 15-Nov-2004 12:00:00 am  
**Review Event:**  
**Review Exemptions:** n/a  
**Review Media Identifier:**  
**Review Release Date:** n/a  
**Review Release Event:** n/a  
**Review Transfer Date:**  
**Review Withdrawn Fields:** n/a  
**SAS ID:** 1925137  
**Secure:** OPEN  
**Status:** NATIVE  
**Subject:** MTN FRAMEWORK GROUP MEETING, JUNE 30-JULY 1  
**TAGS:** ETRD, GATT, MTN  
**To:** STATE  
**Type:** TE  
**vdkgvwkey:** odb://SAS/SAS.dbo.SAS\_Docs/47e1146f-c288-dd11-92da-001cc4696bcc  
**Review Markings:**  
Margaret P. Grafeld  
Declassified/Released  
US Department of State  
EO Systematic Review  
22 May 2009  
**Markings:** Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009